SUPREME COURT OF THE UNITED STATES.

No. 219.

THE UNITED STATES, APP'TS,

vs.

JOSÉ RAMON MALO.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

"Santa Rita."

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JOSÉ RAMON MALO, claimant,
vs.
THE UNITED STATES, defendant.
} For the place named "Santa Rita."

 OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered that on this ninth day of November, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of José Ramon Malo, for the place named "Santa Rita," was presented, and ordered to be filed and docketed with No. 473, and is as follows, to wit:

(*Vide* page 3 of this transcript.)

Upon which petition the following subsequent proceedings were had, in their chronological order, to wit:

LOS ANGELES, *November* 10*th*, 1852.

In case No. 473, José Ramon Malo, for the place named "Santa Rita," the deposition of Pio Pico, a witness on behalf of the claimant, taken before Commissioner Hiland Hall, was filed.

(*Vide* page 4 of this transcript.)

LOS ANGELES, *November* 12, 1852.

In the same case, the deposition of Abel Stearns, a witness on behalf of the claimant, taken before Commissioner Hiland Hall, with document marked H H, No. 1, and a translation thereof, marked C, annexed thereto, was filed.

(*Vide* page 5 of this transcript)

 SAN FRANCISCO, *January* 15, 1853.

In the same case, the deposition of H. A. Den, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed.

(*Vide* page 6 of this transcript.)

SAN FRANCISCO, *October* 3*d*, 1853.

Case No. 473, on motion of the counsel for the claimant, was ordered to the foot of the docket.

SAN FRANCISCO, *December* 1, 1853.

In the same case. the deposition of Juan C. Gallardo, a witness on behalf of the claimant, taken before Commissioner Alpheus Felch, was filed.

(*Vide* page 7 of this transcript.)

SAN FRANCISCO, *December* 23*d*, 1853.

In the same case, the deposition of José Chapman, a witness on behalf of the claimant, taken before Commissioner Alpheus Felch, was filed.

(*Vide* page 8 of this transcript.)

SAN FRANCISCO, *May* 4*th*, 1854.

In the same case, the deposition of Pedro C. Carrillo, a witness on behalf of the claimant, taken before Commissioner Peter Lott, was filed.

(*Vide* page 10 of this transcript.)

SAN FRANCISCO, *Sept.* 5*th*, 1854.

In the same case, the deposition of J. J. Warner, a witness
5 on behalf of the claimant, taken before Commissioner Peter Lott, with Exhibit marked "A P L," annexed thereto, was filed.

(*Vide* page 12 of this transcript.)

SAN FRANCISCO, *October* 3*d*, 1854.

Case No. 473 was submitted on brief, and taken under advisement by the board.

SAN FRANCISCO, *October* 17, 1854.

In the same case, Commissioner R. Aug. Thompson delivered the opinion of the board, confirming the claim.

(*Vide* page 49 of this transcript.)

And the following order was read, to wit:

(*Vide* page — of this transcript.)

Petition.

7 *To the Board of Commissioners for ascertaining and settling private land claims in the State of California:*

Your petitioner, Juan Ramon Malo, of La Purissima, in the State of California, respectfully represents to your honorable board that he claims a certain tract of land called Santa Rita, containing three square leagues, a little more or less, situated in the county of Santa Barbara and State of California; that he claims the same in fee by virtue of a grant made to him under the authority of the Mexican government. Pio Pico governor of the department of the Californias,

bearing date of the 12th of April, A. D. 1845, and having been approved by the departmental assembly on the 3d day of June, A.D. 1846.

Your petitioner would further represent that judicial possession was given him on the 30th and 31st days of October, A.D. 1845, and the boundaries thereof were designated and defined, and also that he and those claiming under him have been in peaceable possession of the said land ever since, without any knowledge of any interfering claim.

Your petitioner presents herewith a traced copy of the espediente, duly certified by the U. S. surveyor general, the original document of juridical possession, as also the original title, together with the respective translations of the same, and will proceed to make such further proof as may be required by your honors.

Your petitioner prays your honorable board to take into consideration his title to said tract of land, and to declare his title to be valid, and to confirm the same.

And your petitioner will ever pray, &c.

8 J. R. MALO,
By HENRY HANCOCK,
Att'y for Claimant.

Made at Los Angeles this — day of November, A.D. 1852.

Filed in office Nov. 9, 1852.
(Signed) GEO. FISHER,
Secretary.

Deposition of Pio Pico.

LOS ANGELES, *Nov. 10th.* 1852.

On this day, before Com'r H. Hall, came Pio Pico, a witness on behalf of the claimant, José R. Malo, petition No. 473, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

In answer to questions by counsel for the claimant, the witness testified as follows:

My name is Pio Pico; my age is fifty-one years, and I reside at Los Angeles.

A paper is now shown me, purporting to be a grant to Ramon Malo, dated 12th April, 1845; my own genuine signature is upon said paper, as is also that of Juan Bandini. It is a genuine official paper. It is hereto annexed, and marked H H, No. 1.

PIO PICO.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

9 Filed in office Nov. 10, 1852.
(Signed) GEO. FISHER, *Sec'y.*

Deposition of Abel Stearns.

LOS ANGELES, *Nov. 12th*, 1852.

On this day, before Com. Hiland Hall, came Abel Stearns, a witness in behalf of the claimant, José R. Malo, petition No. 473, and was duly sworn, his evidence being given in English.

The U. S. associate law agent was present.

In answer to questions by counsel for the claimant, the witness testified as follows:

My name is Abel Stearns; my age is fifty-four years, and I reside in Los Angeles. I have lived in California over twenty-three years.

A paper is shown me purporting to be a testimonial of judicial possession given to J. R. Malo in October and November, 1845.

I am acquainted with the signatures of J. R. Malo, Nicolas A. Den, Joaquin Carrillo, and Raymundo Carrillo. Their signatures, wherever they appear on said paper, I believe to be genuine. I believe the whole document to be a genuine official paper. It is hereto annexed, marked H H, No. 1.

ABEL STEARNS.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office Nov. 12, 1852.

(Signed) GEO. FISHER, *Sec'y.*

10 *Deposition of N. A. Den.*

SAN FRANCISCO, *Jan'y 15th*, 1853.

On this day, before Com'r Harry J. Thornton, came N. A. Den, a witness in behalf of the claimant, José Ramon Malo, petition No. 473, and was duly sworn, his evidence being given in English.

Questions by claimant.

Quest. 1st. What is your name, age, and place of residence?

Ans. 1st. My name is Nicolas A. Den; my age is forty years; my residence is at Santa Barbara, California; I have resided there for the last 16 years.

Quest. 2d. Do you know the rancho called Santa Rita, in Santa Barbara county? and if so, for how long have you known it?

Ans. 2. I do; I have known it for some 12 or 15 years. It was first occupied by the mission Ex. la Purisima. I have known it to be in the possession of them, of the grantee, Don José Ramon Malo, since the time when I gave him possession juridical, in the capacity of judge of the 1st instance.

Question. In what manner has Don José Ramon Malo occupied the same since the time you gave the juridical possession?

Ans. By stock; that is, with cattle and horses.

N. A. DEN.

U. S. law agent present.

Sworn and subscribed before me this 15th Jan'y, 1853.
HARRY J. THORNTON,
Com'r, &c.

Filed in office Jan'y 15th, 1853.
(Signed) GEO. FISHER, *Sec'y.*

11 *Deposition of Juan C. Gallardo.*

OFFICE OF THE BOARD OF U. S. LAND COMMIS'RS, &c.,
San Francisco, Dec'r 1st, 1853.

This day, before Com'r Alpheus Felch, came Juan C. Gallardo, a witness in behalf of the claimant D. José Ramon Malo, petition No. 473, and, being duly sworn, his evidence being in Spanish was interpreted by the secretary as follows:

Questions by Mr. Hancock, attorney for claimant.

1st question. What are your name, age, and place of residence?

Answer. My name is Juan C. Gallardo; my age is fifty-nine years; and I reside at Los Angeles, in California.

2d question. Look on the document now presented to you, purporting to be a plan or map of the rancho of Santa Rita, in Santa Barbara county, being a part of the traced copy of the espediente filed in this case, and state what places named in that diseño you know to exist?

Answer. I do not recognize any place named on the map. I have never been on to the place itself, but I have passed on two sides of it, above and below. I have seen some old fences on the rancho.

JUAN C. GALLARDO.

Mr. Grenhow, associate law agent, was present at the taking of this deposition, but propounded no questions to the witness.

Subscribed and sworn to before me this 1st December, 1853.
ALPHEUS FELCH, *Com'r.*

Filed in office Dec. 1, 1853.
(Signed) GEO. FISHER, *Sec'y.*

12 *Deposition of José Chapman.*

OFFICE OF THE BOARD OF U. S. LAND COMMISSIONERS,
San Francisco, Dec'r 2nd, 1853.

This day, before Commissioner Alpheus Felch, came José Chapman, a witness on behalf of claimant, José Ramon Malo, petition No. 473, and being sworn deposed as follows:

Questions by Mr. Hancock, attorney for claimant.

1st question. What are your name, age, and place of residence?

Answer. My name is José Chapman, my age is nearly thirty-two years, and I reside in Santa Barbara, in California.

2d question. Are you acquainted with the rancho known by the name of Santa Rita? if yea, how long have you known it?

Answer. I am; and have known it ever since Ramon Malo settled on it.

3d question. Please state how it is bounded?

Answer. It is bounded by the rancho Santa Rosa, the land of José Antonio Noriega, the line of the Cross of the Purisima, and the river of the Saca or Purisima river.

4 question. Is there any road running through the rancho Santa Rita?

Answer. The road to the mission Purisima runs through it.
13 The plain of Santa Rita is on this rancho. There is also a lime kiln and lime quarry on it. There are two springs on it.

JOSÉ CHAPMAN.

Mr. Greenhow, associate law agent, was present at the taking of this deposition, but propounded no question to the witness.

Subscribed and sworn to before me this 23d day of December, 1853.

ALPHEUS FELCH, *Com'r.*

Filed in office Dec. 23, 1853.

(Signed) GEO. FISHER, *Sec'y.*

Deposition of Pedro C. Carrillo.

UNITED STATES OF AMERICA, }
State of California. } *ss:*

SAN FRANCISCO, *May* 4, 1854.

This day personally came before Peter Lott, a commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Don Pedro C. Carrillo, a witness in behalf of the claimant in case No. 473 on the docket of said board, wherein José Ramon Malo is claimant; and the said witness, being duly sworn on oath, deposed in the English language as follows, to wit:

The U. S. law agent is present.

Questions by claimant's attorney.

14 1st question. What is your name, age, and place of residence?

Answer. My name is Pedro C. Carrillo; my age 37 years; my residence Santa Barbara county, California.

2d question. Are you acquainted with the rancho called Santa Rita, in Santa Barbara county? if yea, what do you know of its occupancy by José Ramon Malo?

Answer. I am acquainted with the rancho named, and have known it ever since I can recollect anything. The first time I saw José Ramon Malo occupy said rancho was in January or February, 1846. He had a house built at that time on the place at a spring to the westward of the valley of Santa Rita, within the limits of the rancho; he also had cattle and horses, corrals, &c., and has ever since occupied it till last December, when I left home, and I suppose he is still there. I owned a ranch in the neighborhood and was familiar with the place.

3d question. Did said Malo live with his family in the house which you state was on the rancho in January or February, 1846?

Answer. He did live there with his family at that time.

Cross examined by the U. S. law agent.

15. 1st question. How often did you visit the rancho in question in the year 1846?

Answer. It is impossible for me to say. Santa Rosa is on the road between Santa Barbara and San Luis Obispo, which I frequently travelled. I saw it several times that year, and afterwards much more frequently on my visits to my own rancho.

2d question. What description of house was on the rancho when you first saw it in 1846?

Answer. It was a house built of sticks and stones, and what we call in Spanish (palo parado.) The size I cannot state; there were some small huts adjoining it.

3d question. How many cattle had Malo on the place at that time?

Answer. I do not know how many; he had mares and horses and cattle, but their number I do not pretend to know.

PEDRO C. CARRILLO.

Subscribed and sworn to before me on this 4th day of May, A. D. 1854.

PETER LOTT,
Commissioner for taking testimony, &c.

Filed in office May 4, 1854.
(Signed) GEO. FISHER, *Sec'y.*

16 *Deposition of J. J. Warner.*

UNITED STATES OF AMERICA, } *ss:*
State of California, }

SAN FRANCISCO, *Sept. 4th*, 1854.

This day came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners, in said State, J. J. Warner, a witness on behalf of the claimant, José Ramon Malo, in case No. 473 on the docket of said board, and said witness, being sworn, deposed as follows:

The U. S. associate law agent is present.

Questions by H. Hancock, esq., for claimants.

1st question by H. Hancock, esq., for claimant.

1st question. What is your name, age, and residence?

Answer. My name is J. J. Warner; my age, 46 years; my residence San Diego, California.

2d question. Look at the traced copy of the espediente now shown to you, marked "espediente A. P. L." and filed in this case, and state whether you have examined the original thereof in the office of the U. S. surveyor general for the State of California; if yea, are you acquainted with the handwriting of the persons whose names appear

signed thereto ; and if yea, state your means of knowledge, and whether their signatures to said original document, wherever they respectively occur thereto, are genuine.

17 Answer. I have examined said original espediente in said surveyor general's office, and I am acquainted with the handwriting of Manuel Micheltorena, Pio Pico, Nicolas A. Den, Joaquin Carrillo, Agustin Olvera, and Santiago Arguello, having seen them all write; and their respective signatures, wherever they occur to said original document, are genuine.

J. J. WARNER.

Subscribed and sworn to before me Sept. 4, 1854.

PETER LOTT,
Comm'r, &c.

Filed in office Sept. 5, 1854.
(Signed) GEO. FISHER, *Sec'y.*

19 1.—S. D. K.

1845. Espediente promovido por Don Ramon Malo, en pretencion del terreno nombrado Sta. Rita. No. 542.

20 2.—S. D. K.

Sello Cuarto—Dos reales.

Habilitado provicionalmente por la aduana maritima del puertò de Monterey, en el departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

PABLO DE LA GUERRA.
[SEAL.] MICHELTORENA.

Ex'mo Sor Gobernador : Ramon Malo vecino de esta puerto ante la justificacion de V. E. comparezco y digo que teniendose un numero bastante considerable de ganado mayor y caballada, carezco de un terreno para fomentar estos bienes ; y al efecto he indigado ql. se halla un parage enteramente valdio en la jurisdiccion de la Purisima propo para la mantencion y fomento de mis animales.

Monterey, *En'o* 25, *de* 1844.
Inf'e el S. Srio del despacho tomando previam'te los necesarios
MICHELTORENA.

3.—S. D. K.

Este parage, E. Sor es conocido con el nombre de Sta. Rita; colinda con tierras de Sta. Rosa y de los Alamis, con el rio de la Purisima y con lomas inmediatas a la espresada mision. Por lo espuesto A. V. E. suplica se serva concederle la propiedad del predicho terreno de Sta. Rita en lo que recivire gracia y justicia que imploro con las protestas de este lo.

Sta. Barbara, Enero 19 de 1844.

J. R. MALO.

Angeles, *Abril* 10 *de* 1845.
Se le concede á Dn. Ramon Malo, la propiedad que solicita del parage de Sta. Rita en la estencion de tres leguas poco mas òmenos y al efecto librese el titulo respectivo.
PICO.

21 STA. INEZ, *y Feb'o* 1o. *de* 1844.

EXMO. SOR: En cumplimiento de lo dispuesto por V. E. la este espediente, de ql. informe lo conveniente con el mayor respeto digo que aun ql. es verdad ql. dicho terreno se halla vacante es enteramente pues es el unico sitio que le queda à la mision pa. Colocar los bienes que tiene, de consiguiente, si este se la quita á la mision, quedara sin poder susistér y los indigenas naturales propietarios se veran obligados andar peregrinado en grandes trabajos lo que no me parece, justo, como asi mismo lo juzgara V. E. Y. esto es lo que espongo à V. E. esperando de su benignidad atienda à estos pobres neofitos que no quedan desamparados y que en caso que se determine V. E. à conceder el espresado sitio, sea mas bien vendido en provecho de ellos.

FR'O JUAN MORENO.

4.—S. D. K.

(Here follows map.—See original, page 23.)

24 5.—S. D. K.

El ciudadano Fernando Pico vecino del partido de Sta. Barbara:

Certifico que el terreno que demarco el adjunto diseño concedido con el nombre de Sta. Rita se compone de tres sitios poco mas ò menos, segun los conocimientos practicos ql. de el tengo y la manifestacion ql. se me ha hecho del documento ql. indica el repetido diseño; y a pedimiento de la parte interesada, que lo es el Sor D. José Ramon Malo, doy lá presente en la ciudad de los Ang's, a 10 de Abril de 1845.

FERNANDO PICO.

6.—S. D. K.

El ciudadano Nicolas A. Den, alcalde 1o. y juez de 1o. instancia de este puerto y su comprahencion.

Certifico ql. el parage nombrado Santa Rita conocido ql. perteneciente à la micion de la purisima hace algunos años que le consta de vista que se halla valdio pr. parte de la mision que le ocupava y ql. à la presente solo lo ocupan algunos veces pertenecientes al Sor. D'n Francisco Cota ql. igualmente sabe que la espresada mision de la Purisima à la vez no tiene bienes con ql. cubrir el referido parage, ni gente de la que pertenecia à su comunidad que la puede ocupar. Ya pidimiento de D'n Ramon Malo y pr. los fines ql. le convengarle este en el puerto de Santa Barbara a los 31 dias del mes de Marzo de 1849.

NICOLAS A. DEN.

7.—S. D. K.

El ciud'o José Joaq'n Carrillo, vecino del partido de Santa Barbara.

Certifico que el terreno conocido con el nombre de Santa Rita hase algunos años se haya valdio, y solo lo ha ocupado algunos
25 vienes de la pertenencia de Don Fran'co Cota; egualmente se encuentra en la epoca presente y crée que la mision adonde

signed thereto; and if yea, state your means of knowledge, and whether their signatures to said original document, wherever they respectively occur thereto, are genuine.

17 Answer. I have examined said original espediente in said surveyor general's office, and I am acquainted with the handwriting of Manuel Micheltorena, Pio Pico, Nicolas A. Den, Joaquin Carrillo, Agustin Olvera, and Santiago Arguello, having seen them all write; and their respective signatures, wherever they occur to said original document, are genuine.

J. J. WARNER.

Subscribed and sworn to before me Sept. 4, 1854.

PETER LOTT,
Comm'r, &c.

Filed in office Sept. 5, 1854.
(Signed) GEO. FISHER, *Sec'y.*

19 1.—S. D. K.

1845. Espediente promovido por Don Ramon Malo, en pretencion del terreno nombrado Sta. Rita. No. 542.

20 2.—S. D. K.

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Habilitado provicionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

PABLO DE LA GUERRA.
[SEAL.] MICHELTORENA.

EX'MO SOR GOBERNADOR: Ramon Malo vecino de esta puerto ante la justificacion de V. E. comparezco y digo que teniendose un numero bastante considerable de ganado mayor y caballada, carezco de un terreno para fomentar estos bienes; y al efecto he indigado ql. se halla un parage enteramente valdio en la jurisdiccion de la Purisima propo para la mantencion y fomento de mis animales.

MONTEREY, *En'o* 25, *de* 1844.
Inf'e el S. Srio del despacho tomando previam'te los necesarios
MICHELTORENA.

3.—S. D. K.

Este parage, E. Sor es conocido con el nombre de Sta. Rita; colinda con tierras de Sta. Rosa y de los Alamis, con el rio de la Purisima y con lomas inmediatas a la espresada mision. Por lo espuesto A. V. E. suplica se serva concederle la propiedad del predicho terreno de Sta. Rita en lo que recivire gracia y justicia que imploro con las protestas de este lo.

Sta. Barbara, Enero 19 de 1844.

J. R. MALO.

ANGELES, *Abril* 10 *de* 1845.
Se le concede á Dn. Ramon Malo, la propiedad que solicita del parage de Sta. Rita en la estencion de tres leguas poco mas òmenos y al efecto librese el titulo respectivo.
PICO.

21 STA. INEZ, *y Feb'o* 1o. *de* 1844.

EXMO. SOR: En cumplimiento de lo dispuesto por V. E. la este espediente, de ql. informe lo conveniente con el mayor respeto digo que aun ql. es verdad ql. dicho terreno se halla vacante es enteramente pues es el unico sitio que le queda á la mision pa. Colocar los bienes que tiene, de consiguiente, si este se la quita á la mision, quedara sin poder susistér y los indigenas naturales propietarios se veran obligados andar peregrinado en grandes trabajos lo que no me parece, justo, como asi mismo lo juzgara V. E. Y. esto es lo que espongo á V. E. esperando de su benignidad atienda á estos pobres neofitos que no quedan desamparados y que en caso que se determine V. E. á conceder el espresado sitio, sea mas bien vendido en provecho de ellos.

FR'O JUAN MORENO.

4.—S. D. K.

(Here follows map.—See original, page 23.)

24 5.—S. D. K.

El ciudadano Fernando Pico vecino del partido de Sta. Barbara:

Certifico que el terreno que demarco el adjunto diseño concedido con el nombre de Sta. Rita se compone de tres sitios poco mas ó menos, segun los conocimientos practicos ql. de el tengo y la manifestacion ql. se me ha hecho del documento ql. indica el repetido diseño; y a pedimiento de la parte interesada, que lo es el Sor D. José Ramon Malo, doy lá presente en la ciudad de los Ang's, a 10 de Abril de 1845.

FERNANDO PICO.

6.—S. D. K.

El ciudadano Nicolas A. Den, alcalde 1o. y juez de 1o. instancia de este puerto y su comprahencion.

Certifico ql. el parage nombrado Santa Rita conocido ql. perteneciente á la micion de la purisima hace algunos años que le consta de vista que se halla valdio pr. parte de la mision que le ocupava y ql. á la presente solo lo ocupan algunos veces pertenecientes al Sor. D'n Francisco Cota ql. igualmente sabe que la espresada mision de la Purisima á la vez no tiene bienes con ql. cubrir el referido parage, ni gente de la que pertenecia á su comunidad que la puede ocupar. Ya pidimiento de D'n Ramon Malo y pr. los fines ql. le convengarle este en el puerto de Santa Barbara a los 31 dias del mes de Marzo de 1849.

NICOLAS A. DEN.

7.—S. D. K.

El ciud'o José Joaq'n Carrillo, vecino del partido de Santa Barbara.

Certifico que el terreno conocido con el nombre de Santa Rita hase algunos años se haya valdio, y solo lo ha ocupado algunos
25 vienes de la pertenencia de Don Fran'co Cota; egualmente se encuentra en la epoca presente y crée que la mision adonde

pertenece, no lo ocuparà por no tener bienes ni existen comunidad en ella; pues lo a credita el abandono total su que se encuentro la finca y huertas, lo que à pediemente de D'n Ramon Malo y para los fines que le sean combinientes lo firmō en el rancho de Lompac à tres de Abril de 1845.

JOAQ'N CARRILLO.

8.—S. D. K.

El capitan de milicia, ciudadano Josè Antonio de la Guerra y Carrillo.

Certifico ql. el año de 1841 ql. recivi como adm'r la mision de la Purisima se hallaba el parage conocido con el nombre de Sta. Rita baldio absolutamente y solo si habra algunos bienes de la de Sta. Ynez y D'n Fran'co Cota y en la actualidad se halla d'ha mision hasta sin indigenas pr. cuyo motivo la huerta y finea se encuentra en total ruina y à pidim'to de D. Ramon Malo y pa. los fines ql. le combengan doy la presente la Sta. Bba. à 1o. de Abril de 1845.

J. A. DE LA G'RRA CARILLO.

9.—S. D. K.

El ciud'o Antonio Rodrig'z, vecino del pres'o de Sta. Barb'a.

Certifico en devida forma que el parage conocido con el nombre de Sta. Rita perteneciente à la mision de la Purisima se halla valdio hace algunos años pr. parte de d'ho establecim'to que solo se ven en el algunos bienes de D'n Fran'co Cota; y igualm'te crée, ql. la repetida mision à la vez no tiene bienes ni indigenas de dis-
26 poner pues lo acredita el abandono en ql. se encuentra la finca y huertas, lo ql. à pidimiento de D'n Ramon Malo y pa. los fines que se conbengan, firmō en Sta. Barbara a los 28 dias del mes de Mayo de 1841.

ANTONIO RODRIGUEZ.

10.—S. D. K.

Raymundo Carrillo, vecino del partido de Sta. Barbara. Por cuanto D'n Ramon Malo pretende certificar ante el ex'mo sr. gobernador la justa acusacion que en su solicitud hace del terreno de Sta. Rita inmediato á la mision de la Purisima á pidimiento del interesado y certifico que el terreno mencionado hace el espacio de cuatro años ql. la mision de la P'ma lo tiene abandonado y solo pastea en el la caballada y ganado de D'n Franc'co Cota. En la epoca presente creo (y con justicia) ql. nunca será fundado por la mision á ql. pertenese por estas razones, por que la referida mision no tiene bienes con que fundado, por que si acaso los tiene no cuenta un indigeno de quien disponer y si acaso haya algunos, cuyo numero debe ser ciertam'te muy corto y aun no existen en la repitida mision; ultimamente para certificar mas el abandono del terreno de ql. se habla, parese suficiente decir en conclusion que donde se hallan abandonada totalm'te la mision y huertas mucho mejor se debe hallar un terreno en donde no hay de esta naturalem.

11.—S. D. K.

Este es la verdad de mi d'ho y para verificado lo firmò en Sta. Barb'a à 30 de Marzo de 1845.

RAYM'DO CARRILLO.

12.—S. D. K.

El ciud'no Anastacio Carrillo, alf'z retirado de la comp'a de Sta. Barbara.

Certifico ql. el parage conocido con el nombre de Sta. Rita perteneciente á la mision de la Purisima, colindante al este con D'n Francisco Cota, al sur con el Capt'n D'n José de la Guerra, y al norte con D'n José Anto. de la G'rra y Carrillo; se halla à la vez valdio à virtud de ql. la espresada mision no tiene modo de ocuparlo ya pr. la falta de sur naturales y ya pa. no tener bienes semovientes, pr. lo ql. à pedimiento de D'n Ramon Malo, y pa. los fines ql. le sean conbinientes lo formo en Sta. Buenaventura á 4 de Abril de 1845.

ANAST'O CARRILLO.

13.—S. D. K.

El ciudadano Anastacio Carrillo, alf'z retirado de la comp'a de Sta. Barbara.

Certifico à pidimiento de D'n Ramon Malo ql. el terreno conocido con el nombre de Sta. Rita es de la estencion de tres sitios de ganado mayor poco mas ò menos y que se comprende en el diseño adjunto segun los conocimientos que tengo del mencionado paraje hace algunos años, y para los fines ql. le combengan le doy el presente en la ciudad de los Angeles à 10 de Abril de 1845.

ANAST'O CARRILLO,

Queda tomada razon de este titulo en el libro respectivo. Angelos, Mayo 8 de 1846.

14.—S. D. K.

Dado cuenta en sesion de hoy en este espediente à la exc'ma. asamblea departamental se mando pasar á la comision de terrenos baldios.

AGUSTIN OLVERA, *D. S.*

Pio Pico.

28

15.—S. D. K.

La comision de terrenos valdios; a examinado el pres'te esped'ta promovido pr. el ciud'o Ramon Malo relativo al parage Sta. Rita que le fue concedido por el super'r gob'o departam'to con arreglo á las leyes de la materia en esta virtud pone à la deliveracion de V. E. la proposicion siguiente.

Se aprueba la concesion hecha el ciud'o Ramon Malo del parage de Sta. Rita jurisdicion de Sta. Barbara en estencion de tres leguas

poco mas ò menos segun titulo librada con f'ha 1o. de Abril del año po'po' conforme à la ley de 18 de Agosto de 1824, y el art'o 5o. del reglamentos de 21 de N'bre de 1828.

Sala de com's en la C. de los Aug'l's, Mayo 26 de 1846.

S. ARGUELLO.

Angeles, Juno 3 de 1846.

En sesion de este dia aprobo la ex'ma asamblea departamental la proposecion del dictamen anterior.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such having in my office, and under my charge and control, a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify that the fifteen preceding and hereunto annexed pages of tracing paper, numbered from one to fifteen, inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of cer-
29 tain documents on file and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially and affixed my private seal, (not having a seal of office,) at the
[SEAL.] city of San Francisco, this 24th day of October, 1852.

SAM'L D. KING,
Survey'r Gen'l, Cal'a.

Filed in office Nov. 9th, 1852.

GEO. FISHER, *Secretary.*

39 A.—*Translation of espediente.*

Certificate of seal.

Most Excell't Sor. Gobernor:

[L. P.]
MONTEREY, *Jan'y* 25, 1844.
Let the señ'r secretary of dispatch inform, taking first the necessary measures
MICHELTORENA

J. Ramon Malo, citizen of this port, before the equity of your excellency present myself, and says that, having a considerable number of cattle and horses, I find myself in need of a tract of land to pasture them thereon; to this effect I have enquired and find for this purpose a place which is entirely vacant, known by the name of Santa Rita, in the jurisdiction of the mission Purissima, suitable for the keeping and pasturing of my cattle. This place is bounded by the lands of Santa Rosa and of Alamis, by the river Purisima, and by the hills immediate to the said mission; therefore I supplicate your excellency that you may favor me by ceeding to me the property of

the aforesaid place called Santa Rita, by the which I shall receive a favor and justice, which I implore with the usual protestations.

Santa Barbara, Jan'y 19, 1844.

J. R. MALO.

ANGELES, *April* 10, 1845.

EXCELLENT SEÑOR: The property which J. R. Malo solicits, called Santa Rita, containing three square leagues more or less, (a little), is ceded to him, and to that effect let the respective title be given.

31 PIO PICO.

SANTA YNEZ, *Feb'y 1st*, 1844.

In compliance with the direction of your excellency, this espediente that I should report thereon, I, with the utmost respect, say that it is true that, although the said land is found entirely vacant, yet that is for the time being, and it is the only site which the mission has for collecting their cattle, and if it be taken from it there will remain no way of sustaining them, and the aborigines proprietors will be obliged to abandon their great labours, which does not to me seem just, as your excellency yourself will judge; and this is what I communicate to your excellency, trusting that from the charity due those poor neopites it may not be given up, but in case your excellency shall conclude to cede the said land it may be better to sell it for their benefit.

FR. JUAN MORENO.

The sitios comprising the present land are something like three leagues, a little more or less.

The citizen Fernando Pico, resident of the dist. of Santa Barbara: I certify that the land shown by the adjoined diseño is known by the name of Santa Rita; it comprises three sitios, more or less, according to the practical knowledge I have of it, and to the knowledge shown to me, to which s'd diseño refers; and at the request of

32 the party concerned, who is the Señor Don J. R. Malo, I grant this in the city of Los Angeles this 10th day of April, A. D. 1845.

FERNANDO PICO.

I, the citizen Nicholas A. Den, alcalde 1st and judge of the 1st instance of this port and its comprehension, do certify that the place named Santa Rita is known to belong to the mission Purisima; that since some years it is proved, ocularly, to be lying vacant on the part of the mission, and it is at present only occupied by some cattle belonging to Don F'n'o Cota; that I also know, from what I have seen, that the said mission has not stock to cover the said place, nor people that belong to the community who can occupy it, and at the solicitation of Don Ramon Malo, and for the ends which may serve, I certify this in the port of Santa Barbara on this 31st day of March, A. D. 1843.

NICOLAS A. DEN.

I, the citizen Joaq'n Carrillo, residing in the district of Santa Barbara, do hereby certify that the land known by the name of Santa Rita has been vacant for years, and alone occupied by some cattle belonging to Don Francisco Cota, and that at this time I believe the mission to which it belongs does not occupy it, for it has no cattle, nor is there any community existing there, for that is proved by the total abandonment of the property to orchards, which, at the request of Don Juan R. Malo, and for the ends that it may serve, I
33 sign in the ranch Lompoc, this 3d day of April, A. D. 1845.

JOAQ'N CARRILLO.

I, the citizen José de la Guerra y Carrillo, capt. of the militia, certify that in the year 1841 I received, as administrator, the mission of La Purisima; that the place known by the name of Santa Rita was found absolutely vacant; that there were on said mission some cattle of the mission Santa Ynez, and of Don Francisco Cota; that said mission is actually without even an Indian, for which reason the property and orchards were in total ruin, and, at the request of Don Ramon Malo, and for the ends it may serve, I give this present at Santa Barbara this 9th day of April, 1845.

JO. DE LA GUERRA Y CARILLO.

I, Antonio Rodriguez, citizen of the presidio of Santa Barbara, duly certify that the place known by the name of Santa Rita, belonging to the mission Purisima, has been, on the part of the said mission, vacant for some time; that only some cattle of Don Francisco Cota are seen there; and likewise I believe that said mission has no cattle nor Indians at all to keep there, which is proved by the abandonment wherein the property and orchards are lying; and at the request of Don Juan Malo, and for the ends it may serve, I sign this at Santa Barbara on this 28th day of March, A. D. 1845.

ANTONIO RODRIGUEZ.

34 *Ramon Carrillo, citizen of the district of Santa Barbara.*

Whereas Don Ramon Malo seeks to prove before the excellent señor governor the just accusation which, in his petition, he makes for the land of Santa Rita, immediate to the mission La Purisima, at the request of the party concerned, I say and certify that the mentioned land has for the space of four years been abandoned by the mission of La Purisima. That it has also been fed by the horses and cattle of Don Francisco Cota, and that at the present time (and with justice) that it will never be stocked by the mission to which it belongs, for the following reasons: The mission has no cattle with which to do it, for it has not even a single Indian to take charge of them, and in case she may have, they will be too miserable and will not remain there constantly. Lastly, I certify to the abandonment of the said mission. I conceive it sufficient to say that the conduct

(management) of said mission is wholly abandoned, or may say a tract of land where there are not securities of the order of fineas y huertas.

This is the truth, in verification of which I sign at Santa Barbara, this 30th day of March, 1845.

RAYMUNDO CARILLO.

The citizen Anastacio Carrillo, a retired ensign of the company of Santa Barbara.

I certify that the place known by the name of Santa Rita, belonging to the mission of La Purisima, bounded on the east by the
35 lands of the citizen Don Francisco Cota, on the south by the lands of Capt. Don José de la Guerra y Carrillo, is lying at this time vacant on account of the said mission having no mode of occupying it for the want of natives and for the reason of being without cattle or servants. And at the solicitude of Don Ramon Malo, and to the end it may be convenient to him, I sign in Buena Ventura.

April 4, 1845.

ANASTACIO CARRILLO.

The citizen Anastacio Carrillo, retired ensign of the company of Santa Barbara.

I certify, at the request of Don Ramon Malo, that the land known by the name of Santa Rita is of three leagues de ganado mayor, a little more or less, as is shown by the adjoined diseño. According to the knowledge I have had for some years of the place, and for the ends that may be convenient, I give this present certificate in the city of Los Angeles, on this 10th day of April, 1845.

ANASTACIO CARRILLO.

This title remains noted in the respective book.

ANGELES, *May* 8, 1846.

In session of this day, account having been given of this espediente to the excellent departmental assembly, it is ordered to be passed to the commission on vacant lands.

PIO PICO.

AUGUSTIN OLVERA, *Sec'y.*

36 EXCELLENT SOR: The commission on vacant lands have examined the present espediente carried on by citizen Don Ramon Malo, relative to the place called Santa Rita, which was ceded to him by the superior governor of this department according to laws on the subject; in virtue of which it puts for the deliberation of your excellency the following proposition:

The concession made to citizen J. Ramon Malo, of the place called Santa Rita, in the jurisdiction of Santa Barbara, containing three square leagues, a little more or less, is approved, according to the title given, with date, April 10, &c., of the past year, and in con-

formity with the law of the 18th of August, A. D. 1824, and the article 5th of the regulations of the 21st of November, 1828.

Chamber of the commissioners, in the city of Los Angeles, this 26th day of May, 1846.

S. ARGUELLO.

ANGELES, *Jan.* 31, 1846.

In session of this day, approved by the excellent dep't assembly the proposition of the anterior opinion.

I certify the foregoing to be a true and correct translation.

San Francisco, January 5, 1854.

GEO. FISHER, *Sec'y.*

Filed in office Nov. 9, 1852.

(Signed) GEO. FISHER, *Sec'y.*

38 *Original Grant.*

Sello primero, ocho pesos. Habilitado provicionalmente por la aduana maritima del puerto de Monterey, en el departamento de los Californias para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

MICHELTORENA.
PABLO DE LA GUERRA.

[SEAL.] El. C. Pio Pico, primer vocal de la ex'ma gob'r interino del departamento de los Californias.

Por cuanto Don Ramon Malo, ha pretendido para su benificio personal y el de su familia el terreno conocido con el nombre de Sta. Rita demarcado en el diseño ql. acompano à su solicitud; practicadas previamente las diligencias concernientes segun lo dispuesto por las leyes y reglamentos de la materia; usando de las facultades que mes en conferidas a nombre de la nacion Mexicana, he venido en concederle el terreno mencionado declarandole la propiedad de el por las presentes letras, entendiendose dicha concesion con entera conformidad de las leyes, á reserva de la aprovacion de la ex'ma asamblea departamental y bajo las condiciones siguientes.

1o. Podra cercarlo el terreno que se adjudica sin perjudicar las trabesias, caminos y servidumbres; lo disfrutara libre y esclusivamente dedicandolo al cultivo y usos que le acomodo.

2o. Solicitara del jues respectivo le de la posecion juridica en virtud de este despacho por el cual se demarcaran sus linderos y pondra sus majoneras.

3o. El terreno de que se hace donacion es de tres sitios poco mas ò menos de ganado mayor el juez que lo posecion lo hara medir conforme á ordenanza segundo el sobrante que resulte á la nacion
39 para los usos convenientes.

En consecuencia mando que sirviendole de titulo el presente y teniendose por firme y valedero se tome razon de el en el libro que

corresponde y se entregue al interesado para su resguardo y demas fines.

Dado en la ciudad de Los Angeles, capital del departamento, á doce de Abril de mil ochocientos cuarenta y cinco.

PIO PICO.

JUAN BANDINI, *Scrio.*

Queda tomada razon de este despacho superior en el libre respectivo. Angeles, fecha ut supra.

BANDINI.

Filed in office Nov. 9, 1852.

GEO. FISHER, *Sec'y.*

40 *B.—Translation of grant.*

Translation of the original grant of Santa Rita, by his excellency Don Pio Pico to Don Juan Ramon Malo.

The citizen Pio Pico, senior member of the most excellent departmental assembly, and governor *ad interim* of the department of the Californias :

Whereas Don Ramon Malo has petitioned, for his own personal benefit and that of his family, the land known by the name of Santa Rita, marked out on the map which he accompanied with his solicitation, previously practised the enquiries concerning the same in accordance with the dispositions of the laws and regulations on this subject, in the exercise of the powers which have been conferred on me, in the name of the Mexican nation, I have determined to concede to him the above-mentioned land, declaring to him the ownership of it by these present letters, said concession to be with entire conformity with the laws, reserving the approval of the most excellent departmental assembly, and under the following conditions :

1st. He may fence the land which is adjudicated to him, without injury to the way-roads and servitudes. He will enjoy it freely and exclusively, dedicating it to the cultivation and uses that may best suit him.

2d. He shall solicit from the respective judge judicial possession by virtue of this title, by whom the boundaries shall be marked out, and he shall put the landmarks.

3d. The land of which donation is made is of three sitios, a little more or less, ganada mayor. The judge who gives possession shall cause the same to be measured according to ordinance, leaving the overplus that results to the nation for convenient uses.

41 In consequence, I command that the present serve him as a title, and, taking it for firm and valid, that notice be taken of it in the corresponding book, and that it be delivered to the person interested for his security and other uses.

Given in the city of Los Angeles, capital of the department, on the 12th of April, A. D. 1845.

PIO PICO.

JUAN BANDINI, *Secretary.*

Notice remains taken of this superior title in the respective book. Angeles, date *ut supra.*

BANDINI.

I, George Fisher, secretary to the U. S. land commission, &c., hereby certify that the foregoing is a true and correct translation.
San Fran'co, January 5, 1854.
(Signed) GEO. FISHER, *Sec'y.*

Filed in office Nov. 9, 1852.
(Signed) GEO. FISHER, *Secretary.*

42 Sor Juez 1o de Sta. Barb'a : José Ramon Malo, ante V. con el devido respeto de presente y dice: que haviendo obtenido del sup'r gob'o el titulo del parage conocido con el nombre de Sta. Rita estendido en doce de Abril de mil ochocientos cuarenta y cinco que devidamente acompaño suplico á V. se serva; cuando sus ocupaciones se lo permitan; darme la corresponiente posecion juridica segun, esta ordenado en el articulo segundo del referido titulo P. T. A. V. ruego y suplico tenga la bondad de aceder á sus deseos, sirviendose admiter esta mi solicitud en el presente papel por no haber del sellado correspondiente.
Sta. Barb'a, Oct'e 27 de 1845.

J. R. MALO.

En vertud de la antecedente solicitud procedase por mi á la modicion, señalamento de linderos y posecion judicial del terreno de Santa Rita que solicita el interesado, señalandose para verificarlo el dia 3o del presente mes, citense con voletas de comparecido á los colindantes. Don Nicolas Augusto Den, juez de 1a instancia y alcalde 1o de Santa Barbara, actuando por receptoria con los testigos ordinaria por falta de escribano publico, asi lo mando, decreto y firmo de que doy feé.

NICOLAS A. DEN.

Assist'a: Joaq'n Carrillo.
Assist'a: Raym'do Carrillo.

En la misma fecha presente á Don José Ramon Malo, se le notifico el auto que antecede y de el enterado digo; que lo oye y se
43 daba por citado y lo firmo conmigo y los de mi asistencia.

NICHOLAS A. DEN.
J. R. MALO.

Assist'a: Joaq'n Carrillo.
Assist'a: Raym'do Carrillo.

Incintenente se bibraron boleta de comparesidos á los ciudadanos José Antonio de la Guerra colindante con Santa Rita por el norte, á Pedro Cordero por el sur, á Franc'o Cota por el este y á José Antonio Carrillo como encargado de la ex Mission de la Purisima por el veste, y para constancia la rubrico.

En el Rancho de Santa Rita á los treinta dias del mes de Octubre del año mil ochocientos cuarenta y cinco; en cumplimiento del auto del

dia veinte y siete del presente mes comparecieron las ciudadanos Pedro Cordero, Francisco Cota y José Antonio Carrillo colindantes de este rancho y citados para la medicion señelamiente de linderos y posecion judicial de el y nombré para medidores por no haber agrimensor, a los ciudadanos Antonio Maria rella y Bartolo Olivera quienes previa aceptacion y juramento prosederan al desempeño de su encargo, asi yo el juez lo decrete mandi, y firmè con los de mi asistencia, no habiendo comparecido Don José de la Guerra.

NICOLAS A. DEN.

Assistencia: JOAQ'N CARRILLO.
Assistencia: RAYM'DO CARRILLO.

En la fecha se le notifico el ante que antecede a los ciudadanos Pedro Cordero, Francisco Cota y José Antonio Carrillo colindantes y enterados dijeron, que lo oyen; y lo firmaron con migo y la de mi asistencia.

44 PEDRO CORDERO.
NICOLAS A. DEN.

Assist'a: JOAQ'N CARRILLO.
Assist'a: JOSÉ A. CARRILLO.
RAYM'DO CARILLO, *as'a.*

Incontinente y en el espresado rancho se les notifico el auto en que son nombrados medidores, á Antonio Maria Villa y á Bartolo Olivera quienes entendidos déjeron; que aceptaban y aceptaron dichos encargos y juraron á Dios nuestra Señor y por una señal de Cruz de usar los fiel y legalmente a todo su leal saber y entender sin dolo sin fraude, contra persona alguna y por no saber escriber hicieron una cruz, firmando yo y los de mó asistencia.

ANT'O MA. VILLA.
NICOLAS A DEN.
BARTOLO OLIVERA.

JOAQ'N CARRILLO, *Assist'a.*
RAYM'DO CARRILLO, *Assist'a.*

Inmediatamente, yo el referido juez, mandé traer á mi presencia el cordel con que se han de medir las tierras y que los medidores lo midan de cincuenta varas y lo firme con los de mi assistencia.

NICOLAS A. DEN.

Ass'a: RAYM'DO CARRILLO,
Ass'a: JOAQ'N CARRILLO.

En seguida y en presencia de mi el repetido juez los espresados medidores tomaron un cordel de reata y con una vara de medir Mejicana, midieron cincuenta varas, para hacer la referida medicion; y para constancia lo rubrique.

En la misma fecha yo el juez teniendo á la vista el diseño del terreno de Santa Rita me citue acompañado de los testigos de mi asistencia de los medidores y de los espresados Señores Malo, Cordero
45 y Carillo en la cuchilla cituada frente de la Huerta de Areyanes, lindero de Don Francisco Cota rumbo al sur, y mandé se tirase

el cordel asi á la bega del Rio de la Purisima y siguiendo las mediciones el rumbo œste por la bega del rio que esta cituada al sur de esta rancho y se llego á la orilla del sausal contiguo al camino real que corre de la mision vieja á la Purisima en cuyo punte mandé poner una mojonera en señal de lindero ; y habiendo preguntado á los medidores cuantos cordeles havian medido dijeron ; que havian hasta aquel punto ciento cincuenta y dos cordeles medidos. Luego yo el juez, mande que desde esta mojonera se tirase el cordel rumbo norte y habiendolo verificado los medidores panando por la cruz que esta al frente de la casa principal de la Purisima llegaron á lo alto de la loma lindero de Don José Antonio de la Guerra y habiendo dicho los medidores que habian medido desde la orilla del sausal contiguo al camino real que corro de la mision vieja para la Purisima hasta alli doscientos cordeles, mandé se pusiera en lo alto de dicha loma una mojonera que sirva de lindero y que se suspendam los mediciones para proseguir las el dia de mañana. Y para constancia lo firmé con los de ni asistencia de que doy feé.

NICOLAS A. DEN.

Ass'a : Raym'do Carrillo.
Ass'a : Joaq'n Carrillo.

En el ya mencionado rancho á los treinta y un dias del mesá de Octubre de mil ochocientos cuarenta y cinco, yo el juez me constituir personalmente con los de mi assistencia, los medidores y demas interesados en la cumbre de la loma lindero de Don José An-
46 tonio de la Guerra, punto en que se concluyo la medicion del dia de ayer, con el objeto de proseguir las y despues de haber mandado se pusiera en este lugar una mojonera en señal de lindero hise tirar el cordel al este y pasando por lo alto de las lomas hasta muy inmediato donde esta una laguna seca se siguio la medicion hasta á donde estan tres encinas, se midieron ciento cincuenta y dos cordeles en donde mande se pusiera una mojonera que sirva de lindero, y desde este punto setiro el cordel rumbo al sur pasando po rel llano de Santa Rita donde esta una lomita con un encino hasta el punto donde se comenzo la medicion de este rancho, donde declararon los medidores haber medido desde las tres encinos dos cientos cordeles y que segun el computo exacto que habian hecho de todas las mediciones resultara haberse medido tres sitios de ganado mayor y dos cientos varas y estan medidos y señalados.

En consecuencia yo el juez mande poner una mojonera en la cuchilla de dicha loma en señal de lindero y declaré concluidas las mediciones del terreno de Santa Rita. Y para constancia lo signaron con una señal de cruz y firmaron con los de me asistencia de que doy feé.

ANT'O MA. VILLA.
NICOLAS A. DEN.
BARTOLO OLIVERA.

Ass'a : Joaq'n Carrillo.
Ass'a : Raym'do Carrillo.

Inmediatamente en el referido rancho de Rancho de Santa Rita siendo como las dos horas de la tarde Don José Ramon Malo acompañado

del presente juez y testigos que habiendose medido las tierras
47 de este rancho segun consta de la diligencia anterior tomaba la verdedera real actual y corporal posecion de los espresados tres citios y dos cientos varas de terreno pues le pertenecen por justo titulo ql. obtiene dado á su fabor por el Exmo. Sor. Gobernador del Departamento el doce de Abril del año mil ochocientos cuarenta y cinco; entro y paseo por ellos. Arranco Yerbas, esparcio punados de tierra, rompio ramos de los arboles é hizo otros actos y demostraciones de posecion en señal de lo que dijo tomaba de las tierras de Santa Rita comprendidas en dichos tres sitios y dos cientos varas; la cual le fue dada quieta y pacificamente sui contradicion de los colindantes. Con solo una protesta que el. R. P. Ministro Fer. Juan Moreno me remitio con fecha reinte y siete de Octubre del presente año reservando el derecho de reclamar en cual quiera tiempo dicho sitio por haberse dado ilegalmente mas como por el articulo segundc del titulo se manda que solicite del juez respectivo la posecion juridica lo cual fue dada; y en lo que yo el Juez dije le amparava y amparé en nombre de la nacion Mejicana para no ser jamas despogada y mandé que desde entonces en adelante lo tubieran por verdedero Señor y posedor de ellas. De todo lo cual pédio el pudicho Don José Ramon Malo que para memoria en lo venidero y conservacion de sus derechos le fuese por mi el repetido juez, estendida una constancia, y lo firmó conmigo y los de mi asistencia con quienes actuo por falta de escribano publico segun dicho, de que doy feé.

NICOLAS A. DEN.
J. R. MALO.

Assist'a: Joaq'n Carrillo.
Assist'a: Raym'do Carrillo.

48 Sta. Barbara, *Noviembre* 10 *de* 1845.

Entreugen original el presente espediente á Don José Ramon Malo para su resguardo.

NICOLAS A. DEN.

Ass'a: Joaq'n Carrillo.
Ass'a: Raym'do Carrillo.

Filed in office Nov. 9th, 1852.

GEO. FISHER, *Secretary.*

50 D.

Translation of juridical possession.

A translated copy of Don Juan Malo's petition for judicial possession of Santa Rita:

Señor First Judge of Santa Barbara:

José Ramon Malo, before you, with due respect, presents himself and says that, having obtained from the superior government the title of the place known by the name of Santa Rita, given on the 12th of April, A. D. 1845, which, as in duty bound, I herewith transmit, and entreat you to be so kind, when your occupations will permit, as to

give me the corresponding judicial possession, as is ordered in the second article of the above-mentioned title.

Therefore I pray and entreat your honor to have the goodness to accede to my desires, and at the same time that you may admit this my solicitation on common paper, for the want of corresponding sealed paper.

Santa Barbara, Oct. 27, A. D. 1845.

J. R. MALO.

In virtue of the above application I will proceed to the measurement, marking out of the boundaries and judicial possession of the land of Santa Rita which the interested person solicits, setting apart for its fullfilment the 30th day of the present month, citing by a written notification the adjoining land-owners to appear.

I, Nicholas Augustus Den, judge of the first instance, and 1st magistrate of Santa Barbara, performing this by commission, with the ordinary witnesses, for want of a notary public. Thus I commanded, decreed, signed; which I certify.

NICOLAS A. DEN.

51 Witness :
JOAQUIN CARRILLO.
Witness :
RAYMUNDO CARRILLO.

On the same named date Don José Ramon Malo was notified of the decree which precedes ; and he, understanding the same, acknowledged that he heard it, that he was cited, and signed it with myself and my assistants.

J. R. MALO.
NICOLAS A. DEN.

Assistants :
JOAQUIN and RAYMUNDO CARRILLO.

Immediately citations were issued to the citizens José Antonio de la Guerra and adjoining land-owners, with Santa Rita on the north, to Pedro Cordon on the south, to Francisco Cota on the east, and José Antonio Carrillo as agent of the Ex. Mission of La Purisima on the west. In witness whereof, I make my scroll.

In Rancho Santa Rita on this 30th day of October, A. D. 1845, in fullfilment of the decree of the 27th of the present month, there appeared the citizens Pedro Cordero, Francisco Cota, and José Antonio Carrillo, adjoining land-owners around the rancho, and who were cited to be present at the measuring, marking out of the boundaries, and judicial possession of the same; and there being no surveyor, I named as measurers the citizens Señrs. Antonio Maria Villa and Bartolo Olivera, who, after the acceptance and oath, will proceed to the discharge of their appointment. Thus I. the judge, decreed
52 and signed it with those of my assistance, Don Antonio Carrillo, Don José Antonio de la Guerra, not having appeared.

NICOLAS A. DEN.

Assistants :
JOAQUIN and RAYMUNDO CARRILLO.

On this date the citizens Pedro Cordero, Francisco Cota, and José Antonio Carrillo, adjoining land-owners, were notified of the foregoing proceedings; and being informed, they said they heard it, and signed the same with me and the assistant witnesses.

NICOLAS A. DEN.
JOSÉ CARRILLO.
PEDRO CORDERO.

Assistants:
JOAQUIN and RAYMUNDO CARRILLO.

Immediately and in the same rancho aforementioned, Antonio Ma. Villa and Bartolo Olivera were notified of the decree in which they are named measurers, who, being informed, said that they accepted, and did accept, of said appointment, and swore to God our Lord, by the sign of the Cross, to exercise said appointment, true and legally, to the best of their knowledge and abilities, without injury or fraud, against any person whomsoever; and, not knowing how to write, made a cross, I signing with my assistants.

NICOLAS A. DEN.
BARTOLO OLIVERA. +
ANTONIO MA. VILLA. +

Assistants:
JOAQUIN and RAYMUNDO CARRILLO.

53 In continuance, I, the above-mentioned judge, ordered to bring to my presence a cord wherewith said lands are to be measured, and that the measurers do measure it of fifty varas.

In witness whereof, I signed this with my accompanying witnesses.

NICOLAS A. DEN.

Witness: JOAQ'N CARRILLO.
Witness: JOAQUIN CARRILLO.

On the same day, I, the judge, having before me the map of the land of Santa Rita, I placed myself and the assistant witnesses and cord-bearers, together with the above-mentioned Malo, Cordero, Cota, and Carrillo, on the plat upon the hills (cuchilla) situated in front of the orchard of Areyanes, the boundary of Dn. Francisco Cota, direction south; and I commanded that the cord be extended towards the plain of the river Purisima, and continuing the measurement in the westerly direction by the plain of the river, which is south of this rancho, till it arrived at the edge of the willow grove, contiguous to the public road, which comes from the old mission to La Purisima, in which point I commanded to be placed a landmark in sign of a boundary; and having asked the cord-bearers how many cords they had measured, and they replied that up to that point there were one hundred and fifty-two lengths of the cord; directly I, the judge, commanded that from this landmark the cord be ex-
54 tended in direction north, and the cord-bearers having done it, passing by the cross which is in front of the principal house of

give me the corresponding judicial possession, as is ordered in the second article of the above-mentioned title.

Therefore I pray and entreat your honor to have the goodness to accede to my desires, and at the same time that you may admit this my solicitation on common paper, for the want of corresponding sealed paper.

Santa Barbara, Oct. 27, A. D. 1845.

J. R. MALO.

In virtue of the above application I will proceed to the measurement, marking out of the boundaries and judicial possession of the land of Santa Rita which the interested person solicits, setting apart for its fullfilment the 30th day of the present month, citing by a written notification the adjoining land-owners to appear.

I, Nicholas Augustus Den, judge of the first instance, and 1st magistrate of Santa Barbara, performing this by commission, with the ordinary witnesses, for want of a notary public. Thus I commanded, decreed, signed; which I certify.

NICOLAS A. DEN.

51 Witness :
JOAQUIN CARRILLO.
Witness :
RAYMUNDO CARRILLO.

On the same named date Don José Ramon Malo was notified of the decree which precedes ; and he, understanding the same, acknowledged that he heard it, that he was cited, and signed it with myself and my assistants.

J. R. MALO.
NICOLAS A. DEN.

Assistants :
JOAQUIN and RAYMUNDO CARRILLO.

Immediately citations were issued to the citizens José Antonio de la Guerra and adjoining land-owners, with Santa Rita on the north, to Pedro Cordon on the south, to Francisco Cota on the east, and José Antonio Carrillo as agent of the Ex. Mission of La Purisima on the west. In witness whereof, I make my scroll.

In Rancho Santa Rita on this 30th day of October, A. D. 1845, in fullfilment of the decree of the 27th of the present month, there appeared the citizens Pedro Cordero, Francisco Cota, and José Antonio Carrillo, adjoining land-owners around the rancho, and who were cited to be present at the measuring, marking out of the boundaries, and judicial possession of the same; and there being no surveyor, I named as measurers the citizens Señrs. Antonio Maria Villa and Bartolo Olivera, who, after the acceptance and oath, will proceed to the discharge of their appointment. Thus I. the judge, decreed
52 and signed it with those of my assistance, Don Antonio Carrillo, Don José Antonio de la Guerra, not having appeared.

NICOLAS A. DEN.

Assistants :
JOAQUIN and RAYMUNDO CARRILLO.

On this date the citizens Pedro Cordero, Francisco Cota, and José Antonio Carrillo, adjoining land-owners, were notified of the foregoing proceedings; and being informed, they said they heard it, and signed the same with me and the assistant witnesses.

NICOLAS A. DEN.
JOSÉ CARRILLO.
PEDRO CORDERO.

Assistants:
JOAQUIN and RAYMUNDO CARRILLO.

Immediately and in the same rancho aforementioned, Antonio Ma. Villa and Bartolo Olivera were notified of the decree in which they are named measurers, who, being informed, said that they accepted, and did accept, of said appointment, and swore to God our Lord, by the sign of the Cross, to exercise said appointment, true and legally, to the best of their knowledge and abilities, without injury or fraud, against any person whomsoever; and, not knowing how to write, made a cross, I signing with my assistants.

NICOLAS A. DEN.
BARTOLO OLIVERA. +
ANTONIO MA. VILLA. +

Assistants:
JOAQUIN and RAYMUNDO CARRILLO.

53 In continuance, I, the above-mentioned judge, ordered to bring to my presence a cord wherewith said lands are to be measured, and that the measurers do measure it of fifty varas.

In witness whereof, I signed this with my accompanying witnesses.

NICOLAS A. DEN.

Witness: JOAQ'N CARRILLO.
Witness: JOAQUIN CARRILLO.

On the same day, I, the judge, having before me the map of the land of Santa Rita, I placed myself and the assistant witnesses and cord-bearers, together with the above-mentioned Malo, Cordero, Cota, and Carrillo, on the plat upon the hills (cuchilla) situated in front of the orchard of Areyanes, the boundary of Dn. Francisco Cota, direction south; and I commanded that the cord be extended towards the plain of the river Purisima, and continuing the measurement in the westerly direction by the plain of the river, which is south of this rancho, till it arrived at the edge of the willow grove, contiguous to the public road, which comes from the old mission to La Purisima, in which point I commanded to be placed a landmark in sign of a boundary; and having asked the cord-bearers how many cords they had measured, and they replied that up to that point there were one hundred and fifty-two lengths of the cord; directly I, the judge, commanded that from this landmark the cord be ex-
54 tended in direction north, and the cord-bearers having done it, passing by the cross which is in front of the principal house of

the Purissima, they arrived at the top of the hill, the boundary of D. José Antonio de la Guerra; and the measurers having said that they had measured from the edge of the willow grove contiguous to the public road which runs from the old Mission to the Purissima, up to that point two hundred lengths of the cord, I commanded that on the height of said hill there should be placed a landmark that should serve as a boundary, and that they suspend the measurement for to continue it to-morrow.

In witness whereof, I signed with my assistants, which I certify.

NICHOLAS A. DEN.

Assistants:

JOAQUIN and RAYMUNDO CARRILLO.

In the said rancho, on the 31st day of Oct., A. D. 1835, I, the judge, placed myself personally, with my assistants, the cord-bearers, and others interested, on the top of the hill, boundary of Don José de la Guerra, the point at which the measurement was closed yesterday, with the object of pursuing them, and after having commanded that there should be placed a landmark in sign of the boundary, I ordered the cord to be extended direction east, and passing on the heights of the hills until very near where there is a dry lake, the measurement was continued to where there are three oaks; there were measured one hundred and fifty-two lengths of the cord, where I commanded to be placed a landmark to serve as a boundary, and from this
55 point the cord was extended direction south, passing over the plain of Santa Rita, where there is a small hill, with an oak tree, to the point from which the measurement of this rancho commenced to where the measurers declared to have measured from the three oaks two hundred lengths of the cord, and, according to extent, computation of all the measurements made, there resulted by the measuring three leagues of land and two hundred varas, which are measured and marked out.

In consequence, I, the judge, commanded that there be placed a landmark on the summit of said hill in sign of the boundary, and I declared the measurement finished of the land of Santa Rita.

In witness whereof, they signed, making the cross, and I signed with the assistant witnesses, which I certify.

ANTONIO MA. VILLA. +
NICOLAS A. DEN.
BARTOLO OLIVERA.

Assistants:

JOAQUIN and RAYMUNDO CARRILLO.

Immediately on the said rancho of Santa Rita, being about two o'clock in the evening, Don José Ramon Malo, accompanied by the present judge and witnesses, said that the lands being measured of this rancho, as appears by the anterior proceedings, he now took the true and real actual possession and corporeal possession of the said three leagues and two hundred varas of land, since they belong to him by just title, which he obtained, given in his favor by his excel-

56 lency the governor of the department, with date of the 12th of April, A. D. 1845, he entered and walked over them; he tore up weeds and scattered handsfull of earth; he broke branches of trees, and other acts and demonstrations of possession in sign of what he said; that he took of the lands of Santa Rita, comprized in the said three leagues and two hundred varas, which was given to him quietly and peacefully, without any opposition being made by the adjoining land-owners, with but one protest, which was made by the Rio Padre minister, Friar Juan Moreno, and sent to me, bearing date of the 27th of October of the present year, reserving the right to reclaim at any time, said sitios having been illegally; but, as by the second article of the title, it is commanded that he shall solicit of the respective judge judicial possession, which was given, and in which I, the judge, said I defend, and I will defend, in the name of the Mexican nation, so that he shall never be dispossessed.

And I commanded that, from that time henceforward, they should consider him the true lord and possessor of them, all of which the said Don José Ramon Malo asked for that, as a memorial for the future, and in confirmation of his rights, should by me, the above-mentioned judge, extended to him in testimony of them, and he signed it with me and the assistant witnesses, with whom I act for want of a notary public, according to what has been aforementioned, which I certify.

NICOLAS A. DEN.
JOSÉ RAMON MALO.

Assistants:
JOAQUIN CARRILLO.
RAYMUNDO CARRILLO.

57 SANTA BARBARA, *Nov.* 10, 1845.

Deliver this original "Espediente" to Don José Ramon Malo for his security.

NICOLAS A. DEN.

Assistant witnesses:
JOAQUIN CARRILLO.
RAYMUNDO CARRILLO.

I, George Fisher, secretary to the U. S. land commission to ascertain, &c., do hereby certify that the foregoing is a true and correct copy of a Spanish document in the within-mentioned case, now on file in this office.

San Fran'co, Jannary 5th, 1854.
(Signed) GEO. FISHER, *Secretary.*

Filed in office Octo. 9, 1852.

GEO. FISHER, *Secretary.*

58 *Opinion.*

JOSÉ RAMON MALO
vs.
THE UNITED STATES. } Santa Rita.

The petitioner has filed, in support of his claim, an original grant by Gov. Pio Pico, dated April 12th, 1845, conceeding to the grantee, Ramon Malo, the place known by the name of Santa Rita, to the extent of three square leagues, a little more or less; also the original record of an act of juridical possession of the land granted, executed by Nicolas A. Den, judge of 1st instance of Santa Barbara, on the 30th of October, 1845.

The genuineness and authenticity of these documents are established by satisfactory testimony. The boundaries of the land are described with sufficient certainty in the act of juridical possession, which also shows the quantity to be a small fraction over three leagues.

The conditions of the grant appear to have been complied with in due season.

The evidence is deemed sufficient to entitle the claimant to a confirmation, and a decree will be entered accordingly.

Filed in office Oct. 17, 1854.
(Signed) GEO. FISHER, *Sec'y.*

59 *Decree.*

JOSÉ RAMON MALO
vs.
THE UNITED STATES. } "Santa Rita."

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the petitioner is valid, and it is therefore decreed that the same be confirmed.

The land of which confirmation is made is situated in the county of Santa Barbara, and is known by the name of Santa Rita, being the same which was granted to the present claimant by Gov. Pio Pico, 12th of April, 1845, and now held and occupied by him, and is bounded as follows: Beginning at the top of the hill (cuchilla) situated in front of the orchard of Arayanes, the boundary of Don Francisco Cota, and running westerly along the low lands of the Rio de la Purissima, which is situated on the south of this rancho, seven thousand six hundred varas to the edge of a willow grove near the public road from the old mission to La Purissima; thence northerly, passing the cross which is in front of the principal house of the Purissima, ten thousand varas to the top of a hill in the boundary of José Antonio de la Guerra, where a landmark was placed; thence easterly along the top of the hills and near a dry lake, seven thousand six hundred varas to three oak trees, where a landmark was placed; thence southerly, passing over the plain of Santa Rita where there is a small hill, with an oak tree, to the place of beginning, containing three square leagues, a little more or less.

60 For a more particular description, references to be had to the original grant, map, and record of juridical possession; all of which are on file among the papers in the case.

ALPHEUS FELCH,
R. AUG. THOMPSON,
S. B. FARWELL,
Commissioners.

Filed in office Oct. 17, 1854.
(Signed) GEO. FISHER, *Secretary.*

Order.

And it appearing to the satisfaction of this board that the land hereby adjudicated is situated in the southern district of California, it is hereby ordered that two transcripts of the proceedings and the decision in this case and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary; one of which transcripts shall be filed with the clerk of the United States district court for the southern district of California, and the other be transmitted to the Attorney General of the United States.

62 OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing fifty-two pages, numbered from 1 to 52, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 473, on the docket of the said board, wherein José Ramon Malo is the claimant against the United States for the place known by the name of Santa Rita.

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco this thirtieth [SEAL.] day of March, A. D. 1855, and of the independence of the United States of America the seventy-ninth.

GEO. FISHER, *Secretary.*

Filed April 10th, 1855.

C. E. CARR, *Cl'k.*

63 *Appeal.*

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
Washington, June 13th, 1855.

(473.) Santa Rita.

JOSÉ RAMON MALO, *Claimant:*

You will please take notice that in the above case, decided by the commissioners to ascertain and settle the private land claims in the

State of California, and a transcript of the proceedings in which was received in this office on the 16th day of March, 1855, the appeal in the district court of the United States for the southern district of California, will be prosecuted by the United States.

I am, very respectfully,

C. CUSHING,
Attorney General.

Filed July 21st, 1855.

C. E. CARR, *Cl'k,*
By A. H. CLARKE, *Dep'ty.*

65 In the district court of the United States for the southern district of California.

STATE OF CALIFORNIA,
City and County of Angeles:

JOSÉ RAMON MALO, appellee, *ads.* THE UNITED STATES. } Docket No. 219. Transcript No. 473.

To the Hon. Isaac S. K. Ogier, judge:

The petition of Pacificus Ord, a resident of said city, county, and State, attorney of the United States for the southern district of California, who petitions in this behalf for the United States, and being present here in court, in the name and behalf of the United States, represents as follows: That heretofore, to wit, on or about the day of November, A. D. 1852, José Ramon Malo presented a petition to the commissioners to ascertain and settle the private land claims in the State of California, when sitting as a board, claiming a tract of land called Rancho "Santa Rita," in the county of Santa Barbara, State of California, which said petition is referred to for a description of the land claimed, a copy of which appears in the transcript hereafter referred to; that thereafter, to wit, on or about the 17th day of October, A. D. 1854, the said commissioners confirmed, by final decision, the said claim of said petitioner; that thereafter, to wit, on or about the 10th day of April, A. D. 1855, a duly certified transcript of the proceedings and decision of the said commissioners in said cause, and the papers and evidence on which the said decision was founded, was filed in the office of the clerk of the district court of the United States for the southern district of California, and marked No. 473, reference to which it is prayed may be had and made part of this petition; that on or about the 16th day of March, A. D. 1855, the honorable Caleb Cushing, Attorney General of the United States, received a duly certified duplicate of said transcript of the proceedings and decision of said commissioners in said cause, and the papers and evidence on which said decision was founded; that thereafter, to wit, on the 21st day of July, A. D. 1855, the said Attorney General of the United States filed, or caused to be filed, in behalf of the United States, a notice with the clerk of said district court of the United States, that the appeal in said cause from the said decision of

the said commissioners, in the district court of the United States for the southern district of California, would be prosecuted by the United States. Your petitioner further represents, that the land claimed, as aforesaid, is situate in the southern district of California, and within the jurisdiction of this honorable court. Your petitioner further represents and insists, that the said claim is invalid; and the said decision of said commissioners is erroneous, and ought to be reversed, revised, and set aside, for many errors and imperfections of law and evidence, apparent in said certified transcript of the proceedings and decisions of said commissioners in said cause, filed and ap-
66 pealed from as aforesaid. And your petitioner denies all and singular, each and every allegation in the said petition of said claimant, presented as aforesaid to said commissioners. And your petitioner further denies that the said claimant has any valid right or title to said land claimed as aforesaid, or any part thereof.

And no sufficient proof having been made of the allegations in said petition to said commissioners, or in support of the said claim, no decision confirming the same should have been made by said commissioners, but the said claim should have been rejected by them; and the said claimant, having no valid right or title derived from the Spanish or Mexican governments, to the land claimed as aforesaid, the lawful right and title in and to the said land was acquired by, and it now belongs to, the United States, by virtue of conquest, and the treaty of peace, friendship, limits, and settlement, between the United States and the republic of Mexico, made at the city of Guadalupe Hidalgo, February 2d, A. D. 1848.

Wherefore, the said Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the act of Congress, entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said claimant, or his attorney, may be served with a copy of this petition; and that this honorable court will review the said decision of said commissioners, and reverse the same; and decide on the validity of the said claim, and decree the alleged title to be invalid: with costs and general relief.

P. ORD,
Attorney of the United States for the Southern District of California.

Filed this 24th December, A. D. 1856.

C. SIMS, *Clk,*
Pr. J. H. COLEMAN, *Dep'ty.*

67 *Summons.*

UNITED STATES OF AMERICA,
Southern District of California, ss:

The President of the United States to José Ramon Malo, greeting:

Take notice that a petition, a copy of which is herewith served upon you, has been filed against you in the district court of the United

State of California, and a transcript of the proceedings in which was received in this office on the 16th day of March, 1855, the appeal in the district court of the United States for the southern district of California, will be prosecuted by the United States.

I am, very respectfully,

C. CUSHING,
Attorney General.

Filed July 21st, 1855.

C. E. CARR, *Cl'k,*
By A. H. CLARKE, *Dep'ty.*

65 In the district court of the United States for the southern district of California.

STATE OF CALIFORNIA,
City and County of Angeles:

JOSÉ RAMON MALO, appellee, *ads.* THE UNITED STATES. } Docket No. 219. Transcript No. 473.

To the Hon. Isaac S. K. Ogier, judge:

The petition of Pacificus Ord, a resident of said city, county, and State, attorney of the United States for the southern district of California, who petitions in this behalf for the United States, and being present here in court, in the name and behalf of the United States, represents as follows: That heretofore, to wit, on or about the day of November, A. D. 1852, José Ramon Malo presented a petition to the commissioners to ascertain and settle the private land claims in the State of California, when sitting as a board, claiming a tract of land called Rancho "Santa Rita," in the county of Santa Barbara, State of California, which said petition is referred to for a description of the land claimed, a copy of which appears in the transcript hereafter referred to; that thereafter, to wit, on or about the 17th day of October, A. D. 1854, the said commissioners confirmed, by final decision, the said claim of said petitioner; that thereafter, to wit, on or about the 10th day of April, A. D. 1855, a duly certified transcript of the proceedings and decision of the said commissioners in said cause, and the papers and evidence on which the said decision was founded, was filed in the office of the clerk of the district court of the United States for the southern district of California, and marked No. 473, reference to which it is prayed may be had and made part of this petition; that on or about the 16th day of March, A. D. 1855, the honorable Caleb Cushing, Attorney General of the United States, received a duly certified duplicate of said transcript of the proceedings and decision of said commissioners in said cause, and the papers and evidence on which said decision was founded; that thereafter, to wit, on the 21st day of July, A. D. 1855, the said Attorney General of the United States filed, or caused to be filed, in behalf of the United States, a notice with the clerk of said district court of the United States, that the appeal in said cause from the said decision of

the said commissioners, in the district court of the United States for the southern district of California, would be prosecuted by the United States. Your petitioner further represents, that the land claimed, as aforesaid, is situate in the southern district of California, and within the jurisdiction of this honorable court. Your petitioner further represents and insists, that the said claim is invalid; and the said decision of said commissioners is erroneous, and ought to be reversed, revised, and set aside, for many errors and imperfections of law and evidence, apparent in said certified transcript of the proceedings and decisions of said commissioners in said cause, filed and ap-
66 pealed from as aforesaid. And your petitioner denies all and singular, each and every allegation in the said petition of said claimant, presented as aforesaid to said commissioners. And your petitioner further denies that the said claimant has any valid right or title to said land claimed as aforesaid, or any part thereof.

And no sufficient proof having been made of the allegations in said petition to said commissioners, or in support of the said claim, no decision confirming the same should have been made by said commissioners, but the said claim should have been rejected by them; and the said claimant, having no valid right or title derived from the Spanish or Mexican governments, to the land claimed as aforesaid, the lawful right and title in and to the said land was acquired by, and it now belongs to, the United States, by virtue of conquest, and the treaty of peace, friendship, limits, and settlement, between the United States and the republic of Mexico, made at the city of Guadalupe Hidalgo, February 2d, A. D. 1848.

Wherefore, the said Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the act of Congress, entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said claimant, or his attorney, may be served with a copy of this petition; and that this honorable court will review the said decision of said commissioners, and reverse the same; and decide on the validity of the said claim, and decree the alleged title to be invalid: with costs and general relief.

P. ORD,
Attorney of the United States for the Southern District of California.

Filed this 24th December, A. D. 1856.

C. SIMS, *Cl'k,*
Pr. J. H. COLEMAN, *Dep'ty.*

67 *Summons.*

UNITED STATES OF AMERICA,
Southern District of California, ss:

The President of the United States to José Ramon Malo, greeting:

Take notice that a petition, a copy of which is herewith served upon you, has been filed against you in the district court of the United

States in and for the southern district of California, on the 24th day of December, in the year of our Lord one thousand eight hundred and fifty-six, at the city and county of Los Angeles, in said district, by P. Ord, U. S. dist. attorney, praying said court to review the decision of the United States commissioners of the 17th of October, 1854, confirming your claim to the land called Santa Rita, in Santa Barbara county, and that you are required to appear at said court in said city within ten days after the service hereof, if served on you within the county of Los Angeles, and within twenty days if served on you in the county of San Diego or San Bernardino, and within forty days if served on you in any other county of said State, exclusive of the day of service, and answer said petition, or the petitioner will apply to the court for *for* the relief demanded therein.

[SEAL.] In witness whereof, I have hereunto set my hand and affixed the seal of said court, at the city of Los Angeles, this 24th day of December, A. D. 1856.

C. SIMS, *Cl'k*,
Pr, J. H. COLEMAN, *Dep.*

68 Rec'd Dec. 24, 1856.

EDWARD HUNTER, *U. S. Marshal*,
Pr. M. L. GOODMAN, *Dep.*

I served this summons, together with a certified copy of the petition, upon H. Hancock, by delivering to him a true copy of same, at Los Angeles, in the southern district of California, on the 20th day of December, A. D. 1856.

EDWARD HUNTER, *U. S. Marshal*,
Pr. M. J. GOODMAN, *Dep'ty.*

Filed on return the 24th day of December, A. D. 1856.
C. SIMS, *Cl'k*,
Pr. L. H. COLEMAN, *Dep'ty.*

69 *Answer.*

In the United States district court for the southern dis't of Cal'a. Before honorable Isaac S. K. Ogier, U. S. dis't judge. December term, 1856.

JOSÉ RAMON MALO, appellee,
ads.
THE UNITED STATES, appellant. } Doc. No. 219. Trans. No. 473.

In answer to the petition of Pacificus Ord, U. S. dis't att'y for the south'n dis't of California, filed in this honorable court on the 24th day of December, 1856, the claimant, by his attorney, admits all that is set forth in the said petition concerning proceedings already had in the said cause up to date, saving and excepting only such portions of the same as there may be by the said petition alleged touching the validity of the claim of the appellee in the above-entitled cause, and

"errors and imperfections of law and evidence," or "that it (the decree) ought to be reviewed, reversed, and set aside," together with whatever else there is in the said petition alleged, concerning the want of proof or what should have been done by the board of land commissioners therein alluded to; but, on the contrary, your respondent respectfully avers, that his claim to the said rancho, Santa Rita, containing three square leagues of land, a little more or less, in conformity with the petition of the claimant to the governor of California, the report of Señor Anastacio Carrillo, the decree, and grant of the governor of Cal., together with the approval of the de-
70 partmental assembly of California, and act of juridical possession under the Mexican government, as also with the decree of the commission for ascertaining and settling private land claims in the State of California, appointed under the act of Congress approved on the 3d day of March, 1851, heretofore rendered in favor of the said appellee, to wit, on the 17th day of October, 1854, is a good and valid claim.

Wherefore, José Ramon Malo, respondant and appellee in this cause, by his attorney, respectfully prays this honorable court to affirm the said decision of the said U. S. land commissioners, aforesaid, and to decree his claim to the said land to be a good and valid claim, and to confirm the same to the said José Ramon Malo, together with such further relief as he in equity may be found entitled to.

HENRY HANCOCK, *Att'y for Claimant.*

Filed this 24th day of December, A. D. 1856.

C. SIMS, *Cl'k,*
Per J. H. COLEMAN, *Deputy.*

71 No. 219.—*Decree.*

In the district court of the United States for the southern district of California. December Term, 1856.

JOSÉ RAMON MALO, appellee, *ads.* UNITED STATES, appellant. } Santa Rita. Trans. No. 473.

This cause coming on to be heard at this term of court, on appeal from the decision of the commissioners to ascertain and settle private land claims in the State of California, under the act of Congress approved on the 3rd of March, 1851, upon the transcript of the proceedings, decision, papers and evidence upon which said decision was founded, and it appearing that said transcript was duly filed according to law, and counsel for the respective parties having been heard, it is ordered, adjudged, and decreed, that the decision of the said commissioners be, and the same are hereby, affirmed. And it is further adjudged and decreed that the claim of the said appellee, above named, is a good and valid, and the same is hereby confirmed to the extent of three square leagues and no more. The land of which confirmation is hereby made is situated in the county of Santa Barbara, and is known by the name of Santa Rita, being the same

which was granted to the appellee by Don Pio Pico on the 12th day of April, 1845, and now had and occupied by him; for further description of which reference is hereby made to the said grant
72 and deseño therein referred to, together with the act of judicial possession, so far as the said act of possession shall be found to be in conformity with the said grant. Provided that if there be a less quantity than three square leagues within the boundaries before described, confirmation is hereby to such less quantity.

ISAAC S. K. OGIER,
U. S. Dist. Judge for the S. Dist. of Cala.

Filed Dec. 29th, 1854.

C. SIMS, *Cl'k.*

Appeal.

73 United States district court, southern dist. Cal'a.—December Term, A. D. 1856.—Feb'y 24th, A. D. 1857.

JOSÉ RAMON MALO, app'ee,
vs.
THE UNITED STATES, app'l't. } No. 219.

On motion of P. Ord, U. S. dist. attorney,
It is ordered that an appeal be allowed the United States in this case.

New appeal.

74 United States district court south'n dist. Cal'a.—December Term, A. D. 1861.—December 9th, A. D. 1861.

JOSÉ RAMON MALO, app'e,
vs.
THE UNITED STATES, app't. } No. 219 D. C. No. 473 L. C. "Santa Rita."

And now comes J. R. Gitchell, esq., appointed at the request of the court to represent the U. S. herein, (there being no U. S. dist. att'y present,) and moves the court that a new appeal be allowed the U. S. in this case to the Supreme Court of the U. S. from the order and decree of this court heretofore rendered.
Which motion, being heard and by the court understood, is granted.

75 UNITED STATES DISTRICT COURT, SOUTH'N DIST. OF CALIFORNIA,
Clerk's Office, Monterey, Cal'a.

I, John O. Wheeler, clerk of the United States district court for the southern district of California, do hereby certify the foregoing seventy-four pages, numbered from 1 to 74, both inclusive, to

contain a full, true, and correct transcript of the record of the proceedings and of the decision of said court, of the documentary evidence and other testimony of the witnesses, upon which the same is founded, on file in my office, in case No. 219 on the docket of said court, wherein José Ramon Malo is the claimant against the United States for the place named Santa Rita.

In witness whereof, I hereunto sign my name and affix the seal of said court at Monterey, Cal'a, this the 15th day of April, A. D. 1862.

[SEAL.]

JOHN O. WHEELER,
Cl'k U. S. Dist. Court South'n Dist. Cal'a.

Filed Sept. 20th, 1862.

[REC. CCXIX, D. T. 1862.]—3